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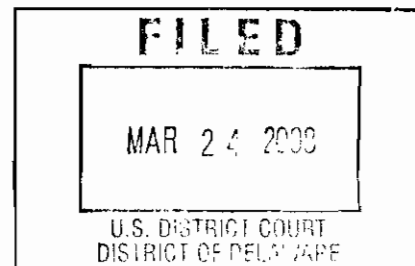
JACKSON R. DUNLAP, JR.  
1931 - 2006

WILLIAM M. CHASANOV  
OF COUNSEL

JOHN F. BRADY  
ANDRE M. BEAUREGARD

March 20, 2008

Clerk of the Court  
United States District Court  
For the District of Delaware  
844 North King Street  
Room # 4209, Lock Box 18  
Wilmington, Delaware 19801



RE: T&H Bail Bonds and Ted Pridden v. Local 199 Laborers' Union of North  
America, et al.  
C.A. No.: 04-1290-SLR

Dear Sir/Madame:

At this time, our firm is not an electronic filer. Therefore, I respectfully ask that this be electronically filed as Plaintiff's Response to Defendant's Statement of Material Facts and Legal Issues upon Which Judgment is Sought in the above captioned case.

Respectfully Submitted,

John F. Brady, Esquire

JFB/vac

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE

T & H BAIL BONDS, INC. and  
TED PRIDGEN

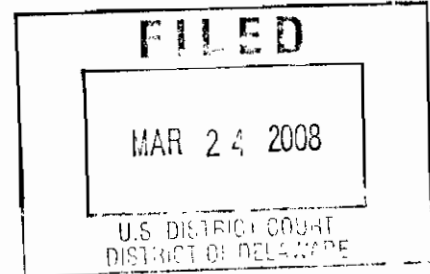
Plaintiffs,

v.

LOCAL 199 LABORERS'  
INTERNATIONAL UNION OF  
NORTH AMERICA, BILLY CARTER  
and JAMES ROCHESTER

Defendant.

C.A. No.: 04-1290-SLR



**PLAINTIFF'S RESPONSE TO DEFENDANT'S STATEMENT OF MATERIAL  
FACTS AND LEGAL ISSUES UPON WHICH JUDGMENT IS SOUGHT**

NOW COMES, the Plaintiffs, T & H Bail Bonds and Ted Pridgen by and through counsel John F. Brady, Esquire of the law firm of Brady, Richardson, Beauregard & Chasanov, LLC, 10 E. Pine Street, Georgetown, Delaware 19947, in response to Defendant's Statement of Material Facts and Legal Issues upon Which Judgment is Sought, and asserts as follows:

**Uncontested Facts**

1. Plaintiff admits that the following fact is correct: Plaintiffs are T & H Bail Bonds, Inc., a corporation located at 623 King Street, Wilmington, Delaware and 307 State Street, Dover, Delaware, and its President, Ted Pridgen.

2. Plaintiff admits that the following fact is correct: Defendants are Local 199, Laborers International Union of North America (hereinafter the "Union"), and its two officers. Plaintiff adds that Defendants have a business address of 532 South Claymont St., Wilmington, Delaware 19801.

3. Plaintiff admits that the following fact is correct: Beginning on September 14, 2004, the Union began to protest at plaintiffs' Wilmington location the use of nonunion labor elsewhere by a company called LCC.

4. Plaintiff admits that the following fact is correct: The protest involved picketing; the use of a large, inflatable rat; and the distribution of handbills.

5. Plaintiff admits that the following fact is correct: On September 22, 2004, the Union filed an unfair labor practice charge with the National Labor Relations Board in Philadelphia, Pennsylvania.

6. Plaintiff admits that the following fact is correct: On March 13, 2006, the Union withdrew those charges.

7. Plaintiff admits that the following fact is correct: Count I of plaintiffs' Complaint is styled "Interference with Trade" and alleges that the defendants engaged in picketing at their business location; distributed "misleading" flyers (handbills); and utilized an inflated, "giant rat" "regarding the use of non-union labor," which activity "is designed to cause economic harm" to the plaintiffs, "is causing safety concerns to Plaintiff and his customers," and is "causing potential customers to go elsewhere for bail bonds."

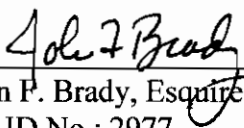
#### **Legal Issues upon Which Judgment is Sought**

8. Plaintiff's claims clearly reflect interests deeply rooted in local feeling and responsibility. Count I asserts a state cause of action recognized in case law dating back at least 59 years. *See, e.g., Regal Home Distributors, Inc. v. Gordon*, 66 A.2d 754 (Del. Super. 1949) (recognizing the tort of tortious interference with prospective business relations, and providing the legal framework under which such a tort will be recognized).

Such tort has continuously been recognized and addressed by Delaware Courts since that time, as detailed in Plaintiff's Brief in Opposition to Defendant's Motion for Summary Judgment. Accordingly, Plaintiff's claims are not preempted.

9. As detailed in Plaintiff's Brief in Opposition to Defendant's Motion for Summary Judgment, the United States Supreme Court recognizes that the National Labor Relations Act addresses the general public's interest in the free flow of commerce and does not "substitute for the traditional state court procedure for collecting damages for injuries caused by tortious conduct." *United Constr. Workers v. Laburnam Constr. Corp.*, 347 U.S. 656, 663-64, 74 S.Ct. 833, 837, 98 L.Ed. 1025, 1031 (1954).

10. Accordingly, Plaintiff's state law claim is not preempted, as it relates to a deeply-rooted state tort not related to the effect of the employer-employee relationship on the general public's interest in the free flow of commerce.

  
\_\_\_\_\_  
John F. Brady, Esquire  
Bar ID No.: 2977  
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10 E. Pine Street  
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302-856-7361  
Attorney for Plaintiffs

Dated: March 20, 2008

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE

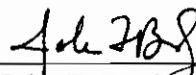
T & H BAIL BONDS, INC. and	:	
TED PRIDGEN	:	C.A. No.: 04-1290-SLR
	:	
Plaintiff,	:	
	:	
v.	:	
	:	
LOCAL 199 LABORERS'	:	
INTERNATIONAL UNION OF	:	
NORTH AMERICA, BILLY CARTER	:	
and JAMES ROCHESTER	:	

CERTIFICATE OF SERVICE

I, John F. Brady, Esquire, certify that I caused to be placed in the U.S. Mail, postage prepaid a copy of the attached Plaintiff's Response to Defendant's Statement of Material Facts and Legal Issues upon Which Judgment is Sought on this 20th day of March, 2008, to the following person(s):

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\_\_\_\_\_  
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Attorney for Plaintiffs

VAC

LAW OFFICES  
OF

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